

# Local Government OMBUDSMAN



## No place like home:

Councils' use of unsuitable bed & breakfast accommodation for homeless families and young people

Focus report: learning lessons from complaints

October 2013

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## The role of the Ombudsman

For nearly 40 years the Ombudsman has independently and impartially investigated complaints about councils and other bodies within our jurisdiction. Our services are free of charge.

If we find something wrong, we can ask the council to take action to put it right. What we ask the council to do will depend on the particular complaint, how serious the fault was and how the complainant was affected.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems do not happen again.

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## Local Government Ombudsman

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## Foreword

This report highlights complaints brought to me, where I am seeing a worrying trend emerging with councils' homelessness services. It relates to some of the most vulnerable sections of society – young people and families under threat of homelessness – who are being housed by councils in unsuitable bed and breakfast accommodation.

Over the last two years the LGO has seen a 14 percent increase in the number of complaints about council homelessness services. Amongst these, I have seen an increasing number of cases where bed and breakfast accommodation has been inappropriately used as a stop-gap to house people. The increase in complaints reflects the growth in the number of homeless families and young people. Figures published by the Department of Communities and Local Government showed that at the end of June 2013 there were 2,090 families with children living in bed and breakfast accommodation, the highest figure since September 2003. Behind those numbers are the lives of thousands of people and this report highlights the experiences of families and young people who have turned to the Local Government Ombudsman to seek an independent view on their complaint.

The case studies in this report range from the case of a sixteen year old who was forced to live in a tent for over a year, to a five-person family left to live in a single-room accommodation for five months. In the latter story a girl attempted to take her life – evidence of the serious impact that unsuitable living conditions can have on people.

During our investigations, councils tell us that the pressures on local authority finances and the increasing levels of homelessness applications are having a major impact on their ability to provide suitable housing. Indeed, amongst the many examples of injustice I also see evidence of some councils doing their utmost in increasingly difficult conditions. The government has stated its commitment to address the blight of homelessness with recent announcements pledging £2 million of funding to support the worst affected councils.

The desire from both local and central government to solve the issues of homeless families and young people needs to be informed by the experiences of those people highlighted in this report, and the hundreds of others that we help every year. Equally local councillors, with their democratic mandate to hold local public services to account, can draw upon the lessons from complaints to scrutinise service provision. One of our aims is to support local accountability and service improvements and this report concludes by offering suggestions for how complaints can be used to deliver both of these.

My challenge to local and central government, to policy makers, and to our elected representatives is to listen to the individual cases of people whose voices are too often hidden in the homelessness statistics. Their complaints provide the opportunity to learn, to use that learning to deliver service improvements and provide public services that are accountable to and meet the needs of local people.

A handwritten signature in black ink, reading "Jane Martin". The signature is written in a cursive style with a horizontal line underneath the name.

**Dr Jane Martin, Local Government Ombudsman**

# 1 Introduction

The use of bed and breakfast accommodation to house homeless families and young people has been brought into the national spotlight over the last year. This increased profile has also been evident in the complaints we look at. In the last 12 months the Ombudsman has issued five public reports about the use of bed and breakfast accommodation and coverage in the press and from advice agencies and charities suggests these problems are widespread. Indeed, we received more than 400 complaints about council homelessness services during the financial year 2012/13. This marks a 14 per cent rise in the number of complaints about homelessness services over the last two years.

The devastating effect of homelessness on children's lives is well documented and some of the most significant injustice uncovered by the Ombudsman comes from complaints about homelessness and children's services.

Based on an analysis of recent complaints we have produced this report, which sets out examples of good practice and what can go wrong. It shows the serious impact of unsuitable accommodation on families and young people and suggests how councils can prevent others from suffering in a similar way.

## The growing problem of homelessness

In July 2011 the Ombudsman published the focus report '*Homelessness: how councils can ensure justice for homeless people*'. Since then there has been an increase in the number of homeless people in the UK and with it increased pressure on council homelessness services. Recent figures show that:

- > 53,540 households were accepted as being homeless during the financial year 2012/13 compared with 44,160 in 2010/11 when the Ombudsman last issued a focus report on homelessness.
- > 55,300 households were in temporary accommodation on 31 March 2013, a 14 percent increase on the same date in 2011.
- > On 31 March 2013 there were 4,500 households in bed and breakfast accommodation compared with 2,310 on the same date in 2011<sup>1</sup>.

Figures published by the Government in June 2013 show nearly 80 per cent of families in bed and breakfast for more than six weeks came from just 15 councils. However, the figures also show that this is an issue that continues to affect the lives of people up and down the country.<sup>2</sup>

The negative long-term effects of homelessness on children and young people were highlighted in a study by the Joseph Rowntree Foundation<sup>3</sup>. The study found that a high proportion of adults who have experienced long-term homelessness have experienced traumatic problems in early life:

- > 34 percent of homeless adults had run away from home and stayed away for at least one night as a child.
- > 16 percent had been part of a family that had experienced homelessness.

The increased pressure on homelessness services is also putting pressure on local authority finances. In 2012 councils in the UK's 12 biggest cities spent more than £91m on providing temporary accommodation in bed and breakfast accommodation with those in London spending £80.5m alone<sup>4</sup>.

In April 2013 the Government announced a new 'Gold Standard' that sets out 10 local challenges for council homelessness services<sup>5</sup>. Two of the challenges set are:

- > not to place any young person aged 16 or 17 in bed and breakfast accommodation
- > not to place any families in bed and breakfast accommodation unless in an emergency and for no longer than six weeks.

The Government has set up the National Practitioner Support Service to support councils in delivering improved services by providing free training and sharing best practice. Councils are also able to access free advice from the National Homelessness Advice Service which is funded by the Government and run by Shelter and Citizens Advice.

## Homelessness - the legal position

Councils owe certain duties to people who are homeless or threatened with homelessness. Councils must arrange accommodation when they have reason to believe an applicant may be eligible, homeless and in priority need. A household with dependent children (including a pregnant woman) is classed as having a priority need. 16 and 17 year olds are also classed as being in priority need<sup>6</sup>.

The law says bed and breakfast accommodation is not suitable for families with dependent children, including pregnant women. Councils can place families or pregnant women in bed and breakfast if there is no alternative available but only for a maximum of six weeks<sup>7</sup>.

Government guidance says councils should tell families placed in bed and breakfast accommodation that it is unsuitable and that it must secure alternative suitable accommodation within six weeks<sup>8</sup>.

The Ombudsman may still find fault causing injustice if a family spent less than six weeks in bed and breakfast accommodation if she believes the council could have moved them sooner.

The Children Act 1989 says young people are to be considered as children until they reach the age of 18. Once a child tells a council they are homeless, or threatened with homelessness the council must carry out an assessment of that child's needs<sup>9</sup>. If a 16 or 17 year old approaches a homelessness service it must provide housing until the children's services authority completes an assessment and decides whether it has any duty to help<sup>10</sup>.

Statutory guidance issued by the Government in 2010 says bed and breakfast accommodation is unsuitable for 16 and 17 year olds even in an emergency<sup>11</sup>. Further statutory guidance issued in the same year says councils must ensure there is enough accommodation for young people within their area and must plan for standby accommodation or surplus provision to deal with emergency placements<sup>12</sup>.

## 2 Councils' use of bed and breakfast accommodation

The use of bed and breakfast accommodation often leads to families and young people living in cramped conditions and sharing facilities with adults who may be vulnerable or have significant social problems.

The effect of poor accommodation on children's lives was highlighted in a 2006 report by Shelter which found:

- > Children living in overcrowded and unfit conditions are more likely to experience respiratory problems.
- > Children in unfit and overcrowded accommodation miss school more often due to illnesses and infections.
- > Children in overcrowded housing are up to 10 times more likely to contract meningitis than children in general<sup>13</sup>.

The Ombudsman has to assess each case on its merits, but we have found fault where councils:

- > Place families in bed and breakfast accommodation when alternatives are available (e.g. suitable accommodation or mediation services).
- > Place young people in bed and breakfast accommodation, and not make referrals to children's services.
- > Fail to take a flexible approach to moving families out of bed and breakfast accommodation.
- > Cannot demonstrate a genuine and sustained effort to move families out of bed and breakfast accommodation.
- > Have used bed and breakfast to house significant numbers of families and young people in bed and breakfast for longer than six weeks, even when there is a plan for tackling the problem.

Below we highlight some of the issues that are having an impact on homeless families and young people, and explore the consequences of those issues.

## Homeless families

### Jennifer's story: Not considering alternatives to bed and breakfast accommodation

Although the law allows councils to accommodate families in bed and breakfast accommodation for up to six weeks, it also says that it is unsuitable.

Jennifer and her three young children had to flee their private rented accommodation following a violent incident. She was attacked by three men who broke into the property with weapons and assaulted her. Jennifer was left severely traumatised by the experience.

When she asked the Council for help she was offered bed and breakfast accommodation. The Council said it always offered bed and breakfast accommodation when people first access its homeless service although it has access to other options such as private rented, housing association and council properties. The Council said it would be unfair for Jennifer to jump ahead of other families already in bed and breakfast who had been waiting to move.

Jennifer refused the Council's offer of bed and breakfast accommodation as she felt unsafe following the attack. She and her three children ended up moving between various friends, sleeping on floors and sofas.

The Ombudsman found no evidence that the Council had considered anything other than bed and breakfast accommodation for Jennifer and her family. Despite Jennifer having gone through an extremely traumatic experience the Council had not taken her circumstances into account. In particular the Ombudsman said the Council had failed to consider whether it was appropriate for Jennifer to share facilities with single men following a violent attack.

The Ombudsman recommended the Council pay Jennifer £2500 in recognition of distress and uncertainty caused. The Ombudsman also recommended the Council review its practice in relation to offers of bed and breakfast accommodation and retrain frontline staff.



### Kim's story: Lack of strategic planning

Councils tell us that the current financial climate has placed additional pressures on them when addressing homelessness including larger numbers of homeless families and a lack of affordable accommodation. We do not dispute the difficulties that local authorities face. However, those circumstances cannot be used as justification for councils not to make any attempt to put strategies in place for addressing or reducing the impact this has on families.

Kim approached her local council for accommodation as she had lost her home. She has a young daughter. The Council placed Kim and her daughter in bed and breakfast accommodation and she remained there for a total of 24 weeks.

The Council says it was facing huge demand for temporary accommodation when Kim approached them, and bed and breakfast accommodation was all it had available at the time. It says it was unable to move Kim and her daughter into suitable accommodation as nothing became available during the 24 weeks she was in the bed and breakfast.

The Ombudsman saw no evidence the Council had made any genuine attempt to secure alternative accommodation for Kim and her daughter. The Council had accommodated a number of families in bed and breakfast accommodation for more than six weeks but had no strategy for tackling this or preventing it from happening again in the future.

The Ombudsman found that Kim and her daughter had been accommodated in unsuitable accommodation for 18 weeks more than was necessary. During this time they had limited privacy as they had to share kitchen and bathroom facilities with other families and single men.

The Ombudsman recommended the Council pay Kim more than £1000 in recognition of having had to live in unsuitable accommodation for longer than necessary. The Ombudsman also asked the Council to produce a plan of how it would secure enough emergency and temporary accommodation to meet demand in future.

### **Marianne's story: Psychological consequences of homelessness**

The consequences of homelessness, especially on children should not be underestimated. The cases that we investigate provide clear evidence of the stress and trauma that the lack of a settled home can cause. Sometimes the consequences of this are so great that it would be impossible to truly remedy the injustice caused.

Marianne and her four children had to leave their house due to threats from their neighbours. They approached the Council for help and were placed in bed and breakfast accommodation. The Council said it had no alternative accommodation during that time as it had seen an increase in the number of people asking for help.

Marianne and her children were forced to share one room in the bed and breakfast. The room was small and cramped and there were no cooking facilities. The family lived in the bed and breakfast for almost 20 weeks with the Council making little attempt to move them elsewhere. The Ombudsman was critical of the Council for leaving the family in bed and breakfast accommodation for a significant period of time.

During this time Marianne's 12 year old daughter attempted to take her own life and there was evidence from children's services records that conditions in the bed and breakfast accommodation had played a part in this. Marianne's other children were also traumatised by their experiences in the accommodation.

The Ombudsman recognised that it would be impossible to remedy the injustice caused to Marianne's children. However in order to give the family back some of the quality time they had lost while in bed and breakfast accommodation she recommended the Council pay for the family to go on holiday.

### **Angela's story: Council accommodated significant number of families for more than six weeks**

Despite councils telling us that an increase in homeless applications and changes to the welfare system are having a detrimental effect on their ability to provide suitable accommodation, this is not justification for failing to meet statutory duties.

Angela is a single parent with two young children. She applied to the Council as homeless and was placed in bed and breakfast while it considered her application. Angela had experienced domestic violence in the past and did not feel safe living in a bed and breakfast that mainly housed men. While staying there her son's behaviour at school was affected and she spent as much time as possible away from the accommodation – often wandering the streets.

Angela's family ended up living in bed and breakfast for eight months before they were moved to self-contained accommodation.

During the Ombudsman's investigation the Council maintained it could not avoid housing many families and pregnant women in bed and breakfast accommodation due to external factors such as changes in the housing benefit rules and increases in homelessness.

The Ombudsman found the Council had developed a temporary accommodation strategy aimed at increasing the supply of self-contained accommodation. It had also taken a series of measures to help prevent homelessness. The Ombudsman was in no doubt that the Council had taken its obligations to the homeless seriously, but nonetheless found it had not complied with its statutory duties.

The Ombudsman agreed to the Council's proposal to pay a financial remedy to Angela and another woman whose complaint had been investigated. The Council also said it would provide a similar remedy to around 40 other people who had approached the Ombudsman after having been through the Council's own complaints procedure without obtaining a satisfactory outcome.

## Homeless young people

### Bruce's story: A lack of a joined up approach

Young people who find themselves homeless may have previously been in contact with the local authority through children's services. The case below highlights the importance of all parts of local public services working together in order to understand and meet the needs of homeless young people. Whilst there may be clearly stated commitments to a joined up approach, a case like Bruce's shows that this is not always applied in practice.

Bruce's mother has mental health problems and he had been taken into care a number of times during his childhood. After an argument with his mother Bruce left the family home and spent some time staying with various friends before approaching the Council's homelessness service for help. Bruce was 16.

The homelessness service offered Bruce bed and breakfast accommodation. Bruce refused the offer of accommodation. No referral was made to children's services.

At this time a manager from a youth centre tried to refer Bruce to children's services but was told it had no duty to him because he was 16. The youth centre manager was told to contact the homelessness service.

Bruce spent the next six months living in a tent. During this time his tent was vandalised on numerous occasions and there was a prolonged period of heavy snow. Bruce went back to the Council's homelessness service to ask for help. The Council offered Bruce bed and breakfast again. Bruce refused the offer as he was frightened of sharing with other adults and was worried he might resume his previous drug use. Bruce continued to live in his tent. It took the homeless service a month before it contacted children's services.

Bruce was eventually allocated a flat through the Council's allocations scheme. Because he was under 18 at the time children's services acted as a trustee.

The Ombudsman was critical of the Council for failing to offer suitable accommodation, failing to take a homeless application and failing to consider whether Bruce was a "child in need". The Council had a joint working protocol with children's services but the Ombudsman found that few officers were aware of it.

The Ombudsman recommended the Council pay Bruce more than £10,000 in recognition of distress caused to him. The Ombudsman also recommended the Council retrain all frontline staff in its children's service and homelessness service on the joint working protocol and duties to 16 and 17 year olds.

Bruce was 18 by the time the complaint was investigated by the Ombudsman. The Council had never accepted Bruce as a 'child in need' under section 20 of the Children Act 1989. The Ombudsman said the Council should have accepted Bruce as a 'child in need' before his 18<sup>th</sup> birthday. This meant that he had missed out on an entitlement to advice and assistance up until the age of 21. The Ombudsman said the Council should treat Bruce as though he was entitled to that support.

### Christina's story: Not considering alternatives to bed and breakfast accommodation

Despite the restriction on placing young people in bed and breakfasts a recent report by The Law Centre Network found around 7per cent of all local authorities were routinely placing 16 and 17 year olds in this type of accommodation (this rose to 10per cent in London). In an emergency that figure rose to 25 per cent of all local authorities (16 per cent in London) using bed and breakfast for these young people<sup>14</sup>. Our investigations uncover examples of local authorities who immediately rely upon bed and breakfast accommodation without considering any alternatives.

Christina was 17 years old. Her parents threw her out of the family home after an argument and she asked the Council's homelessness service for help.

The homelessness service did not contact children's services to arrange an assessment and placed Christina in bed and breakfast accommodation over the weekend. She turned 18 that weekend and when she went back to the homeless service on Monday morning she was told the Council no longer owed her a duty as she was now an adult.

The Council failed to follow its own protocol between its homelessness and children's services for dealing with 16 and 17 year olds and breached statutory guidance by placing a 17 year old girl in bed and breakfast accommodation.

The Ombudsman recommended the Council pay Christina £500 for the avoidable stress of having been placed in bed and breakfast accommodation. The Ombudsman also recommended the Council retrain staff regarding the joint working protocol between its homeless service and children's services.

### **Ryan's story: Lack of a flexible approach to moving families out of bed and breakfast**

The importance of focusing upon the needs of the individual is central to our consideration of complaints. Rigidly applied policies and procedures can themselves lead to injustice.

Ryan and his family asked the Council for help after being evicted from private rented accommodation. The Council had no accommodation available in its area so it placed him in bed and breakfast accommodation forty miles away.

The Council told the Ombudsman it was facing considerable pressure on its resources at the time and was moving families from bed and breakfast and into suitable accommodation in "date order." During this time there was ample opportunity for the Council to move Ryan and his family back within its area and close to their support networks, albeit in another bed and breakfast. Although this may not have been suitable it would have brought the family closer to their support network.

The Council was focussed on moving families from bed and breakfast accommodation in date order. Because Ryan's family were accommodated outside the Council's area his daughter was unable to attend school. The Council failed to consider the individual circumstances of the family and whether it might be appropriate to move them into suitable accommodation earlier than other families who were not affected in the same way.

The Ombudsman recommended the Council pay Ryan £250 to remedy the stress caused to the family from being in bed and breakfast accommodation outside its area for longer than they should have been.

## 3 Putting things right

### How we remedy injustice

Where a council is at fault for placing a family or young person in bed and breakfast accommodation, we will recommend it takes action to put right any injustice suffered by the household. This may involve asking the council to offer the family alternative accommodation which meets their needs. Such action would remedy the continuing injustice suffered by the household.

Remedies may also include procedural change, for example to simplify or clarify what should happen, or to promote better communication. Where appropriate, we also recommend staff training in existing or new procedures and protocols.

We often recommend that the council pays a financial remedy. The amount we recommend will depend on the facts of each case and in some cases it may be significant. Relevant factors include:

- > The length of stay in bed and breakfast accommodation.
- > The facilities available to the household in the accommodation and whether any facilities are shared with other residents.
- > The size of the household and space available for their use.
- > The impact of the accommodation on the household with regard to the age, health and personal circumstances.
- > Any additional costs incurred by the household because of their prolonged stay in bed and breakfast accommodation.

The Ombudsman must consider every case on its own merits.

### Promoting good practice

While remedying the individual injustice is an essential element of what we do, we also have a wider role to encourage councils to tackle systemic failures. In many cases we will ask the local authority to consider whether other people are currently or could be affected by the same issues raised in the complaint. What we ask councils to do will, where appropriate, draw upon good practice we see elsewhere.

Drawing on our experience, we have identified a number of recommendations based on examples of good practice in councils. The following is not an exhaustive list but sets out some of the actions we would expect councils to take.

- > A range of targeted and co-ordinated measures to prevent homelessness arising
- > At the outset, discussions with the applicant about alternatives to bed and breakfast
- > Have arrangements in place for co-operation between homelessness services and children's services in all cases involving families and young people.
- > Where use of bed and breakfast is unavoidable, notification to applicants that the law says it is unsuitable and that the council must secure alternative suitable accommodation within six weeks.
- > Systems to prioritise the sourcing of alternative suitable accommodation for families in bed and breakfast within six weeks of placement.
- > Clear records of what has been done in individual cases to source alternative suitable accommodation.
- > Where there are families in bed and breakfast more than six weeks, councils should have a strategy in place to tackle the problem within a reasonable timescale.
- > Members should be regularly informed of the council's performance regarding placement of families and young people in bed and breakfast accommodation.

## Encouraging local accountability – questions for scrutiny

Councils and all other bodies providing local public services, including councils' homelessness service, should be accountable to local people. The Local Government Ombudsman was established by Parliament to support this process. We want to share learning from complaints brought to us with locally elected councillors who have the democratic mandate to scrutinise the way local authorities carry out their functions and hold service providers to account.

We believe that complaints raised by the public can be an important tool and source of information to help councillors identify issues that are affecting local people. Complaints can therefore play a key part in supporting the scrutiny of local public services.

Our experiences of the types of complaints that are typically raised about local authority use of bed and breakfast accommodation have highlighted a number of key questions that elected members could ask officers when scrutinising homelessness services:

- > How many families have been in bed and breakfast accommodation for more than six weeks?
- > How many 16 and 17 year olds have been placed in bed and breakfast accommodation?
- > Does the local authority have a homelessness strategy and how is its implementation being assessed by senior officers?
- > What complaints have been raised about homelessness services, what were the outcomes and how has the council improved its services as a result?



We would encourage councillors to look at the issues highlighted in this report, as well as the complaints raised locally, to ensure that their local authority homelessness service receives proper and effective scrutiny and that those services are accountable to local people.

## Further information

Visit our website at [www.lgo.org.uk](http://www.lgo.org.uk)

If you have a complaint you would like to make about a council you can contact us on: 0300 061 0614.

## Endnote

- 1 [Statutory Homelessness statistics, Department for Communities & Local Government 2010/11 & 2012/13](#)
- 2 [ibid](#)
- 3 [Tackling homelessness and exclusion: Understanding complex lives - Joseph Rowntree Foundation, September 2011](#)
- 4 [Bureau of Investigative Journalism \[www.thebureauinvestigates.com/2013/05/21/sharp-rise-in-bb-spending-as-homelessness-crisis-intensifies\]\(http://www.thebureauinvestigates.com/2013/05/21/sharp-rise-in-bb-spending-as-homelessness-crisis-intensifies\)](#)
- 5 [National Practitioner Support Service](#)
- 6 s. 188 & 189 Housing Act 1996
- 7 Homelessness (Suitability of Accommodation) (England) Order 2003 (SI 2003 No. 3326)
- 8 [Homelessness Code of Guidance for Local Authorities – Department of Communities & Local Government, 2006](#)
- 9 s. 17 & 20 Children Act 1989
- 10 [Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation – Department for Communities & Local Government, 2010](#)
- 11 [Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation – Department for Communities & Local Government, 2010](#)
- 12 [Sufficiency: Statutory guidance on securing sufficient accommodation for looked after children – Department for Education, 2010](#)
- 13 [Chance of a Lifetime: The impact of bad housing on children's lives – Shelter, 2006](#)
- 14 [Supporting Homeless 16 and 17 Year Olds – The Law Centres Network, February 2013](#)